

Attachment 3: Technical Response Certifications (per Addendum No. 7)

List of Included Certifications and Affidavits:

Item	Certification / Affidavit
1	Certification: Compliance with 49 CFR§ 26.49 – Transit Vehicle Manufacturing DBE Participation Filing with the FTA
2	Certification: Buy America
3	Certification: Pre-Award/Post-Delivery Audits of Rolling Stock
4	Non-Collusion Affidavit
5	Certification: Debarment, Suspension, and Other Responsibility Matters
6	Certification: Debarment, Suspension, and Other Responsibility Matters for Lower Tier Participant
7	Certification: Lobbying
8	Certification: Compliance with Bus Testing Requirement
9	Cetification: Federal Motor Vehicle Safety Standards
10	Non-Discrimination Affidavit
11	Certification: Compliance with Drug & Alcohol Programs
12	Certification: Performance Guarantee
13	Certification: Final Assembly

Item 1: Disadvantaged Business Enterprise (DBE) Approval

(TRANSIT VEHICLE MANUFACTURERS ONLY)

I hereby certify that the Bidder has complied with the requirements of 49 CFR § 26.49 – **Transit Vehicle Manufacturing DBE Participation Filing with the FTA** – and that its goals have not been disapproved by the Federal Transit Administration.

_____ Signature of the Offeror's Authorized Official

_____ Name of Signatory (Printed or Typed)

_____ Title of Authorized Signatory

_____ Date

Attachments (Documents to be provided by the Offeror with this submittal)

_____ Current DBE Participation Goal filing to the FTA in accordance with 49 CFR § 26.49

_____ * Approval of FTA of the TVM's DBE Participation Goal

*If unable to submit approval, please attach an explanation. MBTA reserves the right to require satisfactory documentation of current TVM status as a condition of contract award.

Item 2: Certification: Buy America

THIS DOCUMENT MUST BE COMPLETED AND RETURNED WITH ALL BIDS FOR BUSES OR OTHER ROLLING STOCK. THE OFFEROR MUST EITHER CERTIFY COMPLIANCE WITH BUY AMERICA REQUIREMENTS IN PART I OF THIS FORM OR CERTIFY THAT IT CANNOT COMPLY AND REQUEST A WAIVER IN PART II.

*BUY AMERICA CERTIFICATION
BUSES OR OTHER ROLLING STOCK*

I. Certificate of Compliance with Buy America Rolling Stock Requirements

The Offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j), and the applicable Buy America regulations in 49 CFR 661.11.

Date _____

Signature _____

Typed Name and Title _____

Company Name _____

II. Certificate of Non-Compliance with Buy America Rolling Stock Requirements

The Offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but may qualify for an exception to the requirement consistent with 49 U.S.C. 5323(j)(2)(C), and the applicable Buy America regulations in 49 CFR 661.7. Therefore, a waiver is requested because (check all that apply and attach complete documentation). Should the Federal Transit Authority (FTA) not grant a waiver, the Proposal will be deemed non-compliant.

_____ A waiver is in the public interest

_____ The materials and products being procured are not produced in the United States in sufficient and reasonably available quantities.

_____ The inclusion of domestic material will increase the overall project cost by more than 25%.

_____ The cost of components manufactured in the United States is more than 70% of the cost of all vehicle components and the final assembly will take place in the United States, except for the final assembly of (_____) pilot vehicle.

Date _____

Signature _____

Typed Name and Title _____

Company Name _____

Item 3: Certification: Pre-Award/Post-Delivery Audits of Rolling Stock Purchases

The Offeror hereby certifies that, if determined to be the potential awardee for said action, data as required to conform with C9.06 must be provided prior to award of any FTA-funded procurement.

**BUY AMERICA CERTIFICATE OF COMPLIANCE WITH FTA REQUIREMENTS
FOR BUSES, OTHER ROLLING STOCK, OR ASSOCIATED EQUIPMENT**

Certificate of Compliance

The Offeror hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j) and the applicable regulations of 49 C.F.R. 661.11:

Date: _____

Signature: _____

Company Name: _____

Title: _____

Certificate of Non-Compliance

The Offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but may qualify for an exception to the requirement consistent with 49 U.S.C. 5323(j)(2)(C), and the applicable Buy America regulations in 49 CFR 661.7. Should the Federal Transit Authority (FTA) not grant a waiver, the Proposal will be deemed non-compliant.

Date: _____

Signature: _____

Company Name: _____

Title: _____

Item 4: Non-Collusion Affidavit

IMPORTANT: THIS AFFIDAVIT MUST BE EXECUTED

STATE OF _____ SS:

COUNTY OF _____

_____ being first duly sworn, deposes and says that he/she
is

(insert "sole owner", "a partner", "president" or other proper title)

of

—

the Offeror submitting this proposal; that such proposal was not made in the interest of or on behalf of any undisclosed person, partnership, company, organization or corporation; that such proposal is genuine and not collusive or a sham; the Offeror has not been a party to any agreement to propose a fixed amount or to refrain from proposing and has not, directly or indirectly, by agreement, communication or conference with anyone, attempted to induce action prejudicial to the interest of the Massachusetts Bay Transportation Authority, or of any Offeror or anyone else interested in the proposed Contract.

Signed: _____

Subscribed and sworn to before me this _____ day of _____ 202__

Signed: _____

Notary Public

Item 5: Certification: Debarment, Suspension, and Other Responsibility Matters

PAGE 1 OF 2

The Primary Participant (potential Contractor for a major third party Contract) certifies to the best of its knowledge and belief, that it, and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal, State or local department or agency.
2. Have not within a three-year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this bid had one or more public transactions (Federal, State or local) terminated for cause of default.

If the Primary Participant (potential Contractor for a major third party Contract) is unable to certify to any of the statements in this certification with respect to it or its principals, the Offeror must attach an explanation to this certification).

THE PRIMARY PARTICIPANT (POTENTIAL CONTRACTOR FOR A MAJOR THIRD PARTY CONTRACT) CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Primary Participant:

Signature and Title of Authorized Official

The undersigned chief legal counsel for the _____ hereby certifies

(Offeror)

that the _____ has authority under State and local law to comply with
(Authorized Official)

the subject assurances and that the certification above has been legally made.

Signature of Applicant's Attorney or Authorized Official

Date

Item 5: Certification: Debarment, Suspension, and Other Responsibility Matters
(Continued)

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"INSTRUCTIONS FOR CERTIFICATION"

Primary Covered Transactions

1. By signing and submitting this Proposal the prospective participant is providing the certification on the preceding page in accordance with 2 CFR Part 180 and 2 CFR Part 1200.
2. The inability of a person to provide the certification will not necessarily result in denial of participation in this covered transaction. The prospective participant must submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of this prospective primary participant to furnish a certification or an explanation will disqualify such a person from participation in this transaction.
3. The certification is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
4. The prospective primary participant must provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it must not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this agreement.
6. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lowered tier covered transactions.
7. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

Item 6: Certification: Debarment, Suspension, and Other Responsibility Matters for Lower Tier Participant

PAGE 1 OF 3

The Offeror, as the Primary Participant, hereby certifies that the attached Lower Tier Participant Certification Regarding Debarment, Suspension and Other Responsibility Matters, as noted on the two following pages, must be duly executed in accordance with the provisions of Executive Order 12549, as implemented by 2 CFR Part 180 and 2 CFR part 1200, and must remain on file with the Primary Participant in accordance with the Contract Provisions as if stated herein.

Primary Participant: _____
Signature

Date: _____

Item 6: Certification: Debarment, Suspension, and Other Responsibility Matters for Lower Tier Participant (Continued)

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The Lower Tier Participant certifies by submission of this bid or proposal, that neither it nor its "principals" [as defined in Subpart I of 2 CFR Part 180.995] are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal, State or local department or agency.

When the Lower Tier Participant is unable to certify to any of the statements in this certification, such Participant must attach an explanation to this proposal.

THE LOWER TIER PARTICIPANT CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF EXECUTIVE ORDER 12549, AS IMPLEMENTED BY 2 CFR PART 180 and 2 CFR PART 1200, ARE APPLICABLE THERETO.

Lower Tier Participant: _____
Company Name

Signature of Lower Tier Participant's Attorney or Authorized Official

Date _____

Item 6: Certification: Debarment, Suspension, and Other Responsibility Matters for Lower Tier Participant (Continued)**PAGE 3 OF 3
"INSTRUCTIONS FOR CERTIFICATION"****Lower Tier Covered Transactions**

1. By signing and submitting this proposal the prospective lower tier participant is providing the certification on the preceding page in accordance with 2 CFR Part 180 and 2 CFR Part 1200.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant must provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarment", "suspension", "ineligible", "lower tier covered transaction", "participant", "persons", "principal", , and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and other sections of the rules implementing Executive Order 12549 specifically, 2 CFR Part 180 and 2 CFR Part 1200.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it must not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may check the Nonprocurement List.
8. Nothing contained in the foregoing will be construed to require establishment of a system of records in order to render in good faith the certification required. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Item 7: Certification Regarding Lobbying

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Under the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 (to be codified at 2 U.S.C. § 1601 et seq.), Contractors who apply or bid for an award of \$100,000 or more must file the certification required by 49 CFR parts 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an office or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C 1352. Each tier must also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

I, _____, hereby certify on behalf of _____
(Name and Title) (Offeror)

that to the best of my knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan or cooperative agreement, the undersigned must complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]
3. The undersigned must require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients must certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

Item 7: Certification Regarding Lobbying (Continued)

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The Offeror, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

OFFEROR'S NAME: _____

AUTHORIZED SIGNATURE: _____

TITLE: _____

DATE:

Executed this _____ day of _____, 202____.

By _____, _____
(Signature of Authorized Official) (Title of Authorized Official)

Item 8: Certification of Compliance with Bus Testing Requirement

The undersigned certifies that the vehicle offered in this procurement complies and will, when delivered, comply with 49 USC § 5323(c) and FTA's implementing regulation at 49 CFR Part 665 according to the indicated one of the following three alternatives.

Mark one and only one of the three blank spaces with an "X."

1. _____ The buses offered herewith have been tested in accordance with 49 CFR Part 665 on _____ (date). If multiple buses are being proposed, provide additional bus testing information below or on attached sheet. The vehicles being sold should have the identical configuration and major components as the vehicle in the test report, which must be submitted with this Proposal. If the configuration or components are not identical, then the manufacturer shall provide with its Proposal a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing. If multiple buses are being proposed, testing data on additional buses shall be listed on the bottom of this page.
2. _____ The manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), and submits with this Proposal the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.
3. _____ The vehicle is a new model and will be tested and the results will be submitted to the Agency prior to acceptance of the first bus.

The undersigned understands that misrepresenting the testing status of a vehicle acquired with federal financial assistance may subject the undersigned to civil penalties as outlined in the Department of Transportation's regulation on Program Fraud Civil Remedies, 49 CFR Part 31. In addition, the undersigned understands that FTA may suspend or debar a manufacturer under the procedures in 49 CFR Part 29.

Company name: _____

Name of the Bidder's authorized official: _____

Title of the Bidder's authorized official: _____

Authorized signature

Date

Item 9: Federal Motor Vehicle Safety Standards

The Bidder and (if selected) Contractor shall submit (1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or (2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

Company name: _____

Name of signer: _____

Title: _____

Authorized signature

Date

Item 10: Non-Discrimination Affidavit

PAGE 1 OF 2

STATE OF _____)

COUNTY OF _____)

_____, being first duly sworn deposes and says:

1. That he/she is the _____ (President or other authorized official of Company, or Partnership, a Corporation or Partnership organized and existing under and by virtue of the laws of the State of _____ on whose behalf he/she makes this affidavit (hereinafter "Contractor").
2. That Contractor does not and will not discriminate in its employment practices because of race, religion, color, sex, national origin, disability, or veteran status.
3. That Contractor further understands this contract, purchase order or agreement is subject to the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601, et seq.) And Exec. Order. 11246, as amended, be subject to all rules and/or regulations issued pursuant thereto regarding nondiscrimination in federally-assisted programs of the United States Department of Transportation.
4. That Contractor agrees to be bound to the obligations imposed by said act, executive ordinance and policy.
5. That Contractor agrees that during the performance of any contract resulting from this bid/proposal:
 - a. The Contractor must not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability, or veteran status. The Contractor will take affirmative action to ensure that applicants are employed, and the employees are treated during employment without regard to their race, color, religion, sex, national origin, disability, or veteran status. Such action must include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or rates of pay or other forms of compensation; and selection for training, including apprenticeships.
 - b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin, disability, or veteran status.
 - c. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contact or understanding, a notice to be provided advising the said labor union or worker's representative of the Contractor's commitments under this Section 202 of Executive Order 11246 of September 24, 1965, and must post copies of the notice in conspicuous places available to employees and applicants for employment.
 - d. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, and with the rules, regulations, and relevant orders of the Secretary of Labor.
 - e. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

Item 10: Non-Discrimination Affidavit (Continued)

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- f. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with such rules, regulations or orders, this agreement may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further government contracts of Federally assisted contract in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Contractor will include a citation to 41 CFR 60-1(b) and (c) and the provisions of Paragraphs (1) through (g) herein, in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, so that such provisions are binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Federal Transit Administration, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

(President or other official title)

Subscribed and sworn to before me, this _____ day of _____, 202__.

Notary Public in and for the County of _____ State of _____.

My commission expires on the _____ day of _____, 202__.

(Seal)

Item 11: Certification of Compliance with Drug & Alcohol Programs

The undersigned certifies to comply with the FTA Drug and Alcohol Program requirements

Name: _____

Title: _____

Offeror: _____

Date: _____

Item 12: Certification: Performance Guarantee

The undersigned hereby certifies that the Bidder will provide a 12% Performance Guarantee in accordance with RFP Section 3.3.

Designate below which form of Performance Guarantee will be provided:

_____ 12% Performance Bond in accordance with RFP Section 3.3.
Statement from Surety to be attached herein.

_____ 12% Irrevocable Stand-By Letter of Credit in accordance with RFP Section 3.3.
Statement from Banking Institution to be attached herein.

COMPANY NAME: _____

AUTHORIZED SIGNATURE: _____

TITLE: _____

DATE: _____

Item 13: Certification: Final Assembly

The undersigned hereby certifies that the Bidder will comply with the requirement of Section 11.24.3 with regard to Final Assembly in the United States.

(Details on the proposed final assembly workscope and location to be provided with submission).

LOCATION: _____

AUTHORIZED SIGNATURE: _____

TITLE: _____

DATE: _____